

The Honorable Franklin D. Burgess

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

NATHAN WITT, a minor child, by and
through his parents, VALERIE L.
WITT, and DANIEL A. WITT,
husband and wife, individually as a
marital community, and on behalf of
their minor child,

Plaintiffs,

v.

MARION WARE and JOHN DOE
WARE, individually and as a marital
community, NAILA VANDERKOLK
and JOHN DOE VANDERKOLK,
individually and as a marital
community, BILL TODD and JANE
DOE TODD, individually and as a
marital community, CARMEN CODY
and JOHN DOE CODY, individually
and as a marital community, LEAH
STAJDUHAR and JOHN DOE
STAJDUHAR, individually and as a
marital community, BRENDA
BIGEAGLE and JOHN DOE
BIGEAGLE, individually and as a
marital community, JANICE
LANGBEHN and JOHN DOE
LANGBEHN, individually and as a
marital community, CHILDREN'S
HOME SOCIETY OF
WASHINGTON, a non profit
Washington corporation, SERVICE
ALTERNATIVES FOR
WASHINGTON, INC., Washington

NO. C04-5139FDB

ORDER GRANTING
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
TO DISMISS PARENTS' CLAIMS

NOTED: July 1, 2005

corporation, SUE BATSON and JOHN DOE BATSON, individually and as a marital community, SUSAN GOODSON and JOHN DOE GOODSON, individually and as a marital community, MELVA BINION and JOHN DOE BINION, individually and as a marital community, JANE DOE COATE and JOHN DOE COATE, individually and as a marital community, TOM PRICE and JANE DOE PRICE, individually and as a marital community, GORDON SINCOCK and JANE DOE SINCOCK, individually and as a marital community, BONNIE BUSHNELL and JOHN DOE BUSHNELL, individually and as a marital community, JEREMIAH OLSON, JANE DOE BUTLER and JOHN DOE BUTLER individually and as a marital community, JOHN DOE and JANE DOE Numbers One through Five, individually and as a marital community, STATE OF WASHINGTON and DEPARTMENT OF SOCIAL AND HEALTH SERVICES, GERI THOMAS AKERS and JERRY AKERS, individually and as a marital community,

Defendants.

COMES NOW defendants', MARION WARE and JOHN DOE WARE, individually and as a marital community, NAILA VANDERKOLK and JOHN DOE VANDERKOLK, individually and as a marital community, BILL TODD and JANE DOE TODD, individually and as a marital community, CARMEN CODY and JOHN DOE CODY, individually and as a marital community, LEAH STAJDUHAR and JOHN DOE STAJDUHAR, individually and as a marital community, BRENDA BIGEAGLE and JOHN DOE BIGEAGLE, individually and as a marital community, JANICE LANGBEHN and JOHN DOE LANGBEHN, individually and as a marital community, MELVA BINION and JOHN DOE BINION, individually and as a marital community, JANE DOE COATE and JOHN DOE COATE, individually and as a

1 marital community, TOM PRICE and JANE DOE PRICE, individually and as a marital
 2 community, GORDON SINCOCK and JANE DOE SINCOCK, individually and as a marital
 3 community, JANE DOE BUTLER and JOHN DOE BUTLER individually and as a marital
 4 community, JOHN DOE and JANE DOE Numbers One through Five, individually and as a
 5 marital community, STATE OF WASHINGTON and DEPARTMENT OF SOCIAL AND
 6 HEALTH SERVICES, (“Defendants”) and plaintiffs appearing by their attorney, Gary A.
 7 Preble, and the Court having considered the records and files herein, including:

8 1. Defendants’ Motion and Memorandum for Partial Summary Judgment to
 9 Dismiss Parents’ Claims;

10 2. Declaration of Paul F. James, with attached Exhibits 1-5;

11 3. Plaintiffs’ Response, if any;

12 4. Defendants’ Reply to Plaintiffs’ Response, if any, and;

13 5. Defendants’ Proposed Order Granting Defendants’ Motion for Partial Summary
 14 Judgment to Dismiss Parents’ Claims;

15 and the Court being fully advised in the premises; now therefore, it is hereby

16 ORDERED That defendants’ MARION WARE and JOHN DOE WARE, individually
 17 and as a marital community, NAILA VANDERKOLK and JOHN DOE VANDERKOLK,
 18 individually and as a marital community, BILL TODD and JANE DOE TODD, individually
 19 and as a marital community, CARMEN CODY and JOHN DOE CODY, individually and as a
 20 marital community, LEAH STAJDUHAR and JOHN DOE STAJDUHAR, individually and as
 21 a marital community, BREND BIGEAGLE and JOHN DOE BIGEAGLE, individually and as
 22 a marital community, JANICE LANGBEHN and JOHN DOE LANGBEHN, individually and
 23 as a marital community, MELVA BINION and JOHN DOE BINION, individually and as a
 24 marital community, JANE DOE COATE and JOHN DOE COATE, individually and as a
 25 marital community, TOM PRICE and JANE DOE PRICE, individually and as a marital
 26 community, GORDON SINCOCK and JANE DOE SINCOCK, individually and as a marital

1 community, JANE DOE BUTLER and JOHN DOE BUTLER individually and as a marital
2 community, JOHN DOE and JANE DOE Numbers One through Five, individually and as a
3 marital community, STATE OF WASHINGTON and DEPARTMENT OF SOCIAL AND
4 HEALTH SERVICES, ("Defendants")' Motion for Partial Summary Judgment to Dismiss
5 Parents' Claims is hereby GRANTED and all claims of plaintiffs' Valerie Witt and Daniel Witt
6 allowable under RCW 4.24.010 for the injury of their child, Nathan Witt, are dismissed with
7 prejudice.

8 DONE this 12th day of July 2005



FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

13 Presented by:

14 ROB MCKENNA
15 Attorney General

Approved as to form, notice of presentment
waived:

16 /s/ Paul F. James

17 PAUL F. JAMES, WSBA#13525
18 Assistant Attorney General
Attorneys for State Defendants

GARY A. PREBLE, WSBA # 14758
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2005, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

preble@olylwa.net

/s/Paul F. James
PAUL F. JAMES, WSBA #13525
Assistant Attorney General
Torts Division
P.O. Box 40126
Olympia, WA 98504-0116
(360) 459-6600